

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

COMMON CAUSE et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER et al.,

Defendants.

CIVIL ACTION FILE

No. 1:22-CV-0090-SCJ

ORDER

This matter is before the Court *sua sponte* upon review of the Complaint in this matter. In their Complaint, Plaintiffs request that a three-judge panel be convened pursuant to 28 U.S.C. § 2284(a) and that the Court enter a judgment declaring three Congressional districts to be unconstitutionally drawn. Doc. No. [67] ¶¶ 81-117. Plaintiffs allege that Congressional Districts 6, 13 and 14 violate the Equal Protection Clause because they “were drawn using race as the predominate factor” and using race as the predominate factor was not “narrowly tailored to advance compliance with Section 2 of the VRA.” Id. ¶¶ 120, 121.

“A district court of three judges shall be convened . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts.” 28 U.S.C. § 2284(a). “Upon the filing of a request for three judges, the judge to whom the request is presented shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge.” Id. § 2284(b)(1); see also *Shapiro v. McManus*, 577 U.S. 39, 43–44 (2015) (stating that a district court considering a request for the appointment of a three-judge panel pursuant to 28 U.S.C. § 2284 must simply determine whether the request for three judges is made in a case covered by § 2284). Once the three-judge panel is convened, it may later determine whether it should not have been constituted. See Merced Rosa v. Herrero, 423 F.2d 591, 593 n.2 (1st Cir. 1970).

The Court finds that because this action challenges the constitutionality of three congressional districts (Doc. No. [67] ¶¶ 118–22), it is “covered by [28 U.S.C.] § 2284.” Shapiro, 577 U.S. at 44. Because this case is covered by § 2284, the Court must notify the Chief Judge of the Eleventh Circuit so that he may appoint a three-judge panel. Accordingly, the Court **DIRECTS** the Clerk of Court to

transmit this Order and a copy of the Complaint in this action to the Chief Judge of the United States Court of Appeals for the Eleventh Circuit.

IT IS SO ORDERED this 10th day of January, 2022.

Steve C. Jones

HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE